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UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF OREGON

EDWARD ORTIZ, an individual,

Plaintiff,

vs.

DENIS MCDONOUGH,
Secretary, Department of
Veterans Affairs,

Defendant.

Case No. 3:20-cv-1848-SB

**DECLARATION OF MICHAEL
STORM IN SUPPORT OF
DEFENDANT'S MOTION FOR
SUMMARY JUDGMENT**

I, Michael Storm, declare as follows:

1. I am the Deputy Human Resources Officer for Veterans Integrated Services Networks (VISN 20), Northwest Network and have been in this role since May 2022.

2. In January and Feb 2019, I was the Lead ER (Employee Relations)/LR (Labor Relations), LRAC (Local Reasonable Accommodation Coordinator) for Portland Veterans Administration (VA) Medical Center.

3. In 2019, it was VA policy that an employee could not be non-competitively reassigned, through the reasonable accommodation process, as an accommodation into a position that would be considered a promotion in pay or position. This continues to be the VA policy

4. In January 2019 or February 2019, the VA would have been unable to reassign Edward Ortiz to the GS-7/9 pay grade Physical Security Specialist – Termed Appointment (“NTE Physical Security” position), which was available during that time, as a reasonable accommodation. During January 2019 and February 2019, Mr. Ortiz was a VA police officer at the pay grade GS-6. Given the particular pay scale (Special Salary Rate) applicable to VA police officers, Mr. Ortiz’s VA police officer salary may have been higher than the initial GS-7 salary for the NTE Physical Security position. However, the NTE Physical Security position was listed as a career ladder to the GS-9 pay

grade, which means he would have been eligible for promotion to GS-9 one year from the effective date of a reassignment. Given this, the VA would have considered a reassignment from the VA police officer position to the NTE Physical Security position a promotion because a promotion is defined as a grade increase.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct.

Executed this 27th day of April 2023.

By:  MICHAEL STORM
Digitally signed by MICHAEL STORM
Date: 2023.04.27 23:02:47 -07'00'

Michael Storm